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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/670,152 | 09/26/2000 | Sean M. Whitsell | 7000-008 | 4838 |
| 27820 | 7590 | 06/21/2006 | EXAMINER | |
| WITHROW & TERRANOVA, P.L.L.C. P.O. BOX 1287 CARY, NC 27512 | | | BEAULIEU, YONEL | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3661 | |

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/670,152 | WHITSELL, SEAN M. |
| | Examiner | Art Unit |
| | Yonel Beaulieu | 3661 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 April 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24, 26-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 13-16, 41 and 55 is/are allowed.
- 6) Claim(s) 1, 2, 4, 6, 9-11, 17-24, 26-37, 51 is/are rejected.
- 7) Claim(s) 3, 5, 7, 12, 38-40 and 52-56 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Applicant's arguments filed 4/10/06 have been fully considered but they are not persuasive.

Regarding Applicant's arguments that the reference of record not teaching traffic information based on learned routes, the Examiner respectfully disagrees and maintains Drury teaches the claimed elements.

Drury ('421) is clear on such a teaching – the 'specified trips' taught by Drury pointed out by Applicant is right; however that is based on previously recorded routes taken by a vehicle; hence, the claimed limitation of "learned" route. Applicant needs to reconsider Drury as a whole and focus on col. 21, line 62 – col. 22, line 4; col. 37, line 65 – col. 38, lines 5 and 25 – 32; col. 45, lines 20 – 30).

For at least the above reason, the rejection of claims 1, 2, 4, 6, 9 – 11, 17 – 24, 26 – 37 and 51 are maintained.

Applicant's incorporation of allowable subject matter into independent claim 41 renders claim 41, and any claims dependent thereto, allowable. Claims 13 – 16 and 55 are also allowable. Claims 3, 5, 7, 12, 38 – 40, and 52 – 56 are objected to.

Claims 43 – 50 depend on canceled claimed subject matter and are considered canceled based upon their dependency.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 2, 4, 6, 9 – 11, 17 – 24, 26 – 37, 41, and 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Drury et al. (US 6,707,421 B1).

Regarding claims 1, 20, 24, 26, 27, 32, 37, 41, and 51, Drury et al. teaches computer-implemented media comprising determining if travel on a learned route by a user is likely (based upon previously specified trips); requesting, through a mobile terminal (105), traffic information pertaining to the learned route when travel on the learned route is likely; and delivering/transferring the traffic information via the mobile terminal or from an

outside system to the user (col. 37, line 64 – col. 38, line 5; col. 39, lines 53 – 65 at least); the traffic information being a query/request from a user's cellular telephone using a server 120 (via cellular network 350 in fig. 3 when requested via item 414 in fig. 4A; note item 2600 in fig. 26B also) and relating to the user's position (determined by GPS 325; col. 12, lines 1 – 32; col. 46, lines 45 – 60 at least); the mobile terminal comprising a wireless communication interface (250), a user interface (240), system/traffic information control logic (210).

Regarding claims 2, 21, and 33, Drury further teaches at least one travel time is associated with the learned route (col. 1, lines 27 – 37 and col. 30, lines 58 – 64 at least).

Regarding claims 4, 6, 22, 23, and 34, Drury further teaches comparing the location of the mobile terminal with location associated with the learned route (col. 28, lines 53 – 57 at least).

Regarding claims 17 – 19, 35, and 36, Drury further teaches undesirable route condition and the provision of alternate route (col. 26, lines 9 – 27 at least).

Regarding claims 28 – 31, Drury further teaches all of the limitations including correlating associated locations with roadway information to form learned route including at least one segment (links/nodes; see figs. 7 – 10 and 13A at least).

Regarding claims 9 – 11, Drury further teaches all of the limitations including recording (in 22) the locations of the terminal traveling along a traveled route (col. 10, lines 23 – 33 at least).

Allowable Subject Matter

Claims 13 – 16, 41, and 55 are allowed. Claims 3, 5, 7, 12, 38 – 40, and 52 – 56 are objected to.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (571) 272-6955. The examiner can normally be reached on M-W 9-3; F 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yonel Beaulieu
Primary Examiner
Art Unit 3661